

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSHUA FORSTER,

Plaintiff,

v.

STEPHANIE CLENDENIN, et al.,

Defendants.

Case No.: 1:22-cv-01191-NODJ-CDB (PC)

**ORDER GRANTING PLAINTIFF'S  
UNOPPOSED MOTION FOR LEAVE TO  
FILE A FIRST AMENDED COMPLAINT**

(Doc. 38)

Plaintiff Joshua Forster is a civil detainee proceeding pro se and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Clendenin and Price for violations of Plaintiff's Fourteenth Amendment rights and related state law violations.

**I. INTRODUCTION**

On December 13, 2023, Plaintiff filed a motion for leave to file a first amended complaint (Doc. 38) and contemporaneously lodged the proposed first amended complaint (Doc. 39). Defendants did not oppose the motion and their time to file an opposition has passed, which the Court construes as an affirmation of non-opposition. *See* Local Rule 230(c) ("A failure to file a timely opposition may also be construed by the Court as a non-opposition to the motion.").

**II. DISCUSSION**

Plaintiff contends Senate Bill 1008, allowing individuals housed within California's penal

1 system “to be able to make free outgoing phone calls,” became effective January 1, 2023. (Doc.  
2 38 at 2.) He states he has “been denied access to this program, or any program comparable to it,”  
3 while housed at the state hospital in Coalinga. (*Id.*) Plaintiff seeks to provide additional facts  
4 asserting his conditions of confinement in this regard are “more restrictive within DSH-C tha[n]  
5 the conditions of confinement imposed on the prisoners within CDCR.” (*Id.*)

6 A comparison of Plaintiff’s original complaint (Doc. 1) and the proposed and lodged first  
7 amended complaint (Doc. 39) reveals Plaintiff seeks to assert additional facts concerning  
8 telephone usage relating to his first two causes of action. Plaintiff does not seek to add additional  
9 parties.

10 Leave to amend a pleading “is entrusted to the sound discretion of the trial court,”  
11 *Pisciotta v. Teledyne Indus., Inc.*, 91 F.3d 1326, 1331 (9th Cir. 1996), and “[t]he court should  
12 freely give leave when justice so requires,” Fed. R. Civ. P. 15(a)(2). In exercising its “discretion,  
13 a court must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits,  
14 rather than on the pleadings or technicalities.... Accordingly, Rule 15’s policy of favoring  
15 amendments to pleadings should be applied with extreme liberality.” *United States v. Webb*, 655  
16 F.2d 977, 979 (9th Cir. 1981) (internal quotation marks & citations omitted).

17 Upon review of Plaintiff’s motion, including the proposed first amended complaint lodged  
18 simultaneously with this Court, the undersigned finds good cause to grant the motion.

### 19 **III. CONCLUSION AND ORDER**

20 Accordingly, for the reasons stated above, **IT IS HEREBY ORDERED** that:

- 21 1. Plaintiff’s “Request For Leave to Amend and File a First Amended Complaint” (Doc.  
22 38) is **GRANTED**;
- 23 2. The Clerk of the Court is **DIRECTED** to **FILE** the First Amended Complaint lodged  
24 on December 13, 2023 (Doc. 39) and adjust the docket accordingly; and

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3. Defendants SHALL respond to the First Amended Complaint within 21 days of the date of this order.

IT IS SO ORDERED.

Dated: January 31, 2024

  
UNITED STATES MAGISTRATE JUDGE